

UNITED STATES DISTRICT COURT

Northern District of California

CITIBANK, N.A.,

No. C 12-0403 MEJ

Plaintiff,

ORDER TO SHOW CAUSE

v.

JUAN MARTINEZ,

Defendant.

On January 25, 2012, Defendant Juan Martinez removed this unlawful detainer action from Sonoma County Superior Court. However, an unlawful detainer action does not arise under federal law but is purely a creature of California law. *Wells Fargo Bank v. Lapeen*, 2011 WL 2194117, at *3 (N.D. Cal. June 6, 2011); *Wescom Credit Union v. Dudley*, 2010 WL 4916578, at *2 (C.D. Cal. Nov. 22, 2010). Thus, it appears that jurisdiction is lacking and the case should be remanded to state court. Accordingly, the Court ORDERS Defendant Juan Martinez to show cause why this case should not be remanded to the Sonoma County Superior Court. Defendant shall file a declaration by February 16, 2012, and the Court shall conduct a hearing on March 1, 2012 at 10:00 a.m. in Courtroom B, 15th Floor, 450 Golden Gate Avenue, San Francisco, California. In the declaration, Defendant must address how this Court has jurisdiction over Plaintiff's unlawful detainer claim. Defendant should be mindful that an anticipated federal defense is not sufficient to confer jurisdiction. *Franchise Tax Bd. of California v. Construction Laborers Vacation Trust*, 463 U.S. 1, 10 (1983).

IT IS SO ORDERED.

Dated: February 1, 2012



Maria-Elena James
Chief United States Magistrate Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

CITIBANK, N.A.,

Plaintiff,

v.

JUAN MARTINEZ,

Defendant.

Case Number: CV12-0403 MEJ

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on February 1, 2012, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Juan Martinez
40 Cordelia Drive
Petaluma, CA 94952

Dated: February 1, 2012

Richard W. Wieking, Clerk
By: Brenda Tolbert, Deputy Clerk